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Settlers on the public lands in Oklahoma.

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SETTLERS ON THE PUBLIC LANDS IN OKLAHOMA.

JANUARY 17, 1894.—Laid on the table and ordered to be printed.

Mr. McRAE, from the Committee on the Public Lands, submitted the following

ADVERSE REPORT:

[To accompany H. R. 268.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 268) for the relief of settlers on the public lands in Oklahoma Territory, and for other purposes, have had the same under consideration and report it back with the recommendation that it do not pass.

The following letters are made a part of the report:

DEPARTMENT OF THE INTERIOR,
Washington, December 15, 1893.

SIR: I transmit herewith a report from the Commissioner of the General Land Office on House bill 268, for the relief of settlers on the public lands in Oklahoma Territory, and for other purposes.

The purpose of this bill is to relieve settlers in Oklahoma Territory from payment of the price fixed by law for the lands acquired by agreements with certain Indian tribes which were open to settlement and entry under the provisions of the acts of February 13, 1891 (26 Stat., 758), and of March 3, 1891 (26 Stat., 1026).

I concur in the views of the Commissioner that no reason exists why settlers on lands in Oklahoma Territory should be granted privileges not accorded to settlers on lands acquired by purchase from the Indians in other States and Territories.

Very respectfully,

HOKE SMITH,
Secretary.

Hon. THOMAS C. McRAE,
Chairman Committee on Public Lands, House of Representatives.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., October 27, 1893.

SIR: I have had the honor to receive, by reference from the Department, for report in duplicate and return of paper H. R. bill No. 268, for the relief of settlers on the public lands in Oklahoma Territory, and for other purposes, which was transmitted to the Department on September 26, 1893, by Hon. Thomas C. McRae, chairman of the Committee on Public Lands of the House of Representatives, with a request for your opinion as to the propriety of passing the same.

The bill provides:

"That section seven of an act entitled 'An act to ratify and confirm agreements with the Sac and Fox Nation of Indians and the Iowa tribe of Indians of Oklahoma Territory, and to make appropriations for carrying out the same,' approved February thirteenth, eighteen hundred and ninety-one, Twenty-sixth Statutes, seven hundred and forty-nine, be, and hereby is, amended so as to read as follows:

"SEC. 7. That whenever any of the lands acquired by the agreements in this act ratified and confirmed shall, by operation of law or proclamation of the President of the United States, be open to settlement, they shall be disposed of to actual settlers only under the provisions of the homestead laws as amended by section five of

the act of March third, eighteen hundred and ninety-one, entitled 'An act to repeal timber-culture laws, and for other purposes,' Twenty-sixth Statutes, ten hundred and ninety-five: *Provided*, That any person otherwise qualified who has attempted but for any cause failed to secure title in fee to a homestead under existing laws, or who made entry under what is known as the commuted provision of the homestead law, shall be qualified to make a homestead entry upon any of said lands.'

"SEC. 2. That section sixteen of an act entitled 'An act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June thirtieth, eighteen hundred and ninety-two, and for other purposes,' approved March third, eighteen hundred and ninety-one, Twenty-sixth Statutes, nine hundred and eighty-nine, be, and the same is hereby, amended so as to read as follows:

"SEC. 16. That whenever any of the land acquired by either of the three foregoing agreements (the Citizens' Band of Pottawatomie Indians, the Absentee Shawnee Indians, and the Cheyenne and Arapaho tribes of Indians) respecting lands in the Indian or Oklahoma Territory shall, by operation of law or proclamation of the President of the United States, be open to settlement, they shall be disposed of to actual settlers only under the provisions of the homestead and townsite laws; but the rights of honorably-discharged Union soldiers and sailors, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes of the United States shall not be abridged, and all lands in Oklahoma are hereby declared to be agricultural lands, and proof of their non-mineral character shall not be required as a condition precedent to final entry.'

"SEC. 3. That this act shall relate back to the date of each of said acts, so as to treat all entrymen making entry of lands thereunder alike, and give each the same protection, rights, and privileges, it being the intention of this act to give each entryman entitled thereto one hundred and sixty acres of land, or such part thereof as the entryman is entitled under either of said acts, upon residing in good faith upon and cultivating and improving the land entered by him for the period of five years, and paying the fees provided by law for making and completing homestead entries without reimbursing the Government for the purchase price for said lands or any part thereof; or the entryman may commute said entry if he so desires under the provisions of section twenty-three hundred and one of the Revised Statutes.

"SEC. 4. That all acts or parts of acts inconsistent or in conflict with this act are hereby repealed."

In reply, I have the honor to report that section 7 of the act of February 13, 1891 (26 Stats., 758-759), provides, in substance, in regard to the lands ceded by the Sac and Fox Nation and the Iowa tribe of Indians, that they shall be disposed of to actual settlers only, under the provisions of the homestead laws, except section 2301, which shall not apply: *Provided*, That each settler, before receiving patent for the land entered, shall pay to the Government, in addition to the legal fees, the sum of \$1.25 per acre for the land so entered, the privileges being granted to the settler, who has complied with all the laws relating to homestead settlement, to receive patent therefor, at his option, at the expiration of twelve months from the date of settlement upon his homestead; it is also provided that any person otherwise qualified who has attempted, but for any cause failed, to secure a title in fee to a homestead under existing law, or who made entry under what is known as the commuted provision of the homestead law, shall be qualified to make a homestead entry upon any of said lands.

The bill under consideration proposes to amend said section 7 of the act of February 13, 1891, so as to dispose of said lands to actual settlers only, under the provision of the homestead laws as amended by section 5 of the act of March 3, 1891 (26 Stats., 1095), retaining, however, the last provision of said section 7, permitting a homestead entry to be made for these lands by any person who had failed to secure title in fee to a homestead under existing law, or by one who had made entry under the commutation provision of the homestead law.

The fifth section of the act of March 3, 1891, amends section 2289, Revised Statutes, so as to prevent any person who is the proprietor of more than 160 acres of land in any State or Territory from acquiring any right under the homestead law, and also section 2290, Revised Statutes, so as to require a different affidavit from that formerly required to be made by applicants, as preliminary to homestead entries.

The first section of the bill thus permits the commutation of a homestead entry under section 2301, Revised Statutes, and does not require the payment of \$1.25 per acre for all the lands entered, as provided in said section 7 of the act of February 13, 1891.

Section 16 of the act of March 3, 1891 (26 Stats., 1026), provides, in regard to the lands acquired from the Citizen Band of Pottawatomie, the Absentee Shawnee, and the Cheyenne and Arapaho tribes of Indians, that the same, whenever opened, shall be disposed of to actual settlers only, under the provisions of the homestead and townsite laws, except section 2301, Revised Statutes, and that each settler, before

making final proof and receiving a certificate of entry, shall pay to the Government for the land taken, in addition to the legal fees, within five years from the date of the first original entry, \$1.50 per acre, one-half of which shall be paid within two years; but that the rights of honorably discharged Union soldiers, as defined in sections 2304 and 2305, Revised Statutes, shall not be abridged, except as to the sum to be paid for the lands.

The second section of the present bill also proposes to permit the commutation of entries of the lands mentioned, and does not require the payment of \$1.50 per acre for all the lands entered, as provided in said section 16 of the act of March 3, 1891.

The third section of said bill proposes that its provisions relate back to the date of each of the acts about to be amended, in order to affect alike all entrymen who have entered these lands, and to allow the acquisition of the lands without paying the Government price therefor, except when commuted under the provisions of sec. 2301, R. S.

The fourth section repeals all acts or parts of acts inconsistent or in conflict therewith.

The lands ceded by the Sac and Fox, Iowa, Citizen Band of Pottawatomie, and Absentee Shawnee Indians were, by the President's proclamation of September 18, 1891, thrown open to homestead entry September 23, 1891, and those ceded by the Cheyenne and Arapaho Indians were, by the President's proclamation of April 13, 1892, opened to homestead entry on April 19, 1892.

Under the treaties made with these various tribes of Indians the Government agreed to allot them portions of the lands, to pay them large sums of money for the lands ceded by them, and in some cases to expend additional sums of money for the improvement of their homes.

In providing for the payment for these lands by parties who entered them, Congress merely devised a way to raise the amount to be paid the Indians, without drawing upon the general revenues of the Government. But it is now proposed to put these lands on the same basis as other Government lands which might be acquired, under certain conditions, without other payment than the legal fees.

Other lands have been recently acquired from the Indians, notably those ceded by the Sioux Indians in Dakota and Nebraska, and settlers thereon are required to pay, in addition to the legal fees, a stated price therefor, and also to reside on and cultivate the lands entered for certain periods of time. I see no reason why settlers on those lands in Oklahoma Territory should be granted privileges not accorded to settlers on lands acquired by purchase from the Indians in other States or Territories.

I therefore am not inclined to favor the passage of the bill, which is herewith returned.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

The SECRETARY OF THE INTERIOR.

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